

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC-SDNY
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JASON M. SMITH,

Plaintiff,

v.

OFFICER JIMMY GUTIERRES (Shield No.
27000), OFFICER CHRISTOPHER
GORDON (Shield No. 14137), and OFFICER
KEVIN VIOLA (Shield No. 18818),

Defendants.

No. 21-CV-6086 (RA) (OTW)

ORDER

RONNIE ABRAMS, United States District Judge:

On August 2, 2023, Defendants informed the Court that they had been advised that Plaintiff Jason Smith, who was proceeding pro se, has passed away. ECF No. 67. No later than August 15, 2023, Defendants shall, in accordance with Rule 25(a)(1) of the Federal Rules of Civil Procedure, mail a Statement of Death and a copy of this Order to Mr. Smith's last known address and file proof of such service with the Court. *See, e.g., Feinberg v. Land*, No. 19-cv-3410 (JMF) (S.D.N.Y. Sept. 22, 2020) (ECF No. 55).


In accordance with Rule 25(a), upon the death of a party, a motion for substitution may be filed "by any party or by the decedent's successor or representative." Fed. R. Civ. P. 25(a)(1). This motion must be filed within ninety days of service of the Statement of Death. *Id.* If no such motion is made within ninety days, then the action "must be dismissed." *Id.*

If Ms. Carol Smith, who Defendants represent to be Plaintiff's mother, or any other party would like to file a motion for substitution, they shall do so within ninety days of service of the Statement of Death in accordance with Rule 25(a). Otherwise, the case will be dismissed pursuant

to the Rule.

SO ORDERED.

Dated: August 8, 2023
New York, New York



Ronnie Abrams
United States District Judge